IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

FIRST APPEAL NO.295 OF 1995.

The State of Maharashtra : Appellants.

versus

Imtiyaz Ismail Khan : Respondent.

Mr.B.R.Patil, Government Pleader, for the State.

None for the respondent.

CORAM : D.G.DESHPANDE,J.

DATED : 18th January 2005.

ORAL ORDER

1. Heard learned Government Pleader for the State. Nobody is present for the respondent. Respondent was the tenant in the acquired property which was acquired for road widening. The property is a house of 600 sq.ft. in dimension. The respondent was doing business of tailoring. Notification under the M.R.T.P. Act was issued on 30.10.81. Award was passed on

23.9.86. He was awarded total compensation of Rs.6000/- by the SLAO. He filed a Reference for enhancement and the trial Court granted him Rs.15,000/- i.e. Rs.9,000/- more.

2. The learned Government Pleader contended that there is absolutely no evidence worthy of consideration in favour of the respondent-claimant and, even though in his claim petition i.e. Reference and in his evidence the respondent has contended that he was having 16 sewing machines and one interlocking machine and, 16 labourers were working with him, Not a single document was produced by him to show that he was having so many sewing machines with him or, that he had employed any labourer for doing any work. Therefore, the learned Government Pleader pointed out that even though, according to the respondent, he was paying income tax, no income tax return, nor any document of any kind to substantiate his contention that he was earning Rs.12,000/- per month was produced. No evidence was also adduced by the respondent that he has suffered any loss on account of shifting of premises which is on the back side of acquired premises. In the cross examination the

respondent has been shattered. His total claim appears to be imaginary and baseless. Therefore, there was no reason for the trial court to enhance the compensation. No case at all was made out for interference with the award passed by the SLAO. Hence the following order :-

:ORDER:

The appeal is allowed.

The impugned order dated 16th July 1991 enhancing the compensation by Rs.9,000/- is set aside with costs.

[D.G.DESHPANDE]

18/01/2005 JUDGE.